

# Notice of Allowability

Application No.

09/659,895

Examiner

Brian P Mruk

Applicant(s)

SIVIK ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to December 11, 2003.
2. ☒ The allowed claim(s) is/are 1-5, 8-15 and 17-23.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 20040304.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Brian P. Mruk*  
Brian P Mruk  
Primary Examiner  
Art Unit: 1751

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Laura Grunzinger on March 3, 2004.

2. The application has been amended as follows:

IN THE CLAIMS:

**Cancel Claims 6 and 16**

3. The following is an examiner's statement of reasons for allowance:

Wolf et al, WO 95/13260, discloses a low foaming nonionic surfactant composition having the following formula (I):  $R^1-(OA)_x-(O)-CH(CH_3)-O-R^2$ , wherein  $R^1$  is a  $C_1$ - $C_{30}$  alkyl group, a  $C_3$ - $C_{30}$  alkenyl group, or a  $C_7$ - $C_{30}$  aralkyl or alkaryl group;  $R^2$  is a  $C_1$ - $C_{10}$  alkyl group; A is a 1,2-alkylene group with 2 to 4 carbon atoms; and X is from 1-50 (see page 1, lines 10-30). It is further taught by Wolf et al that that the low foaming nonionic surfactant of formula I are used in an amount of 49.8% by weight in a composition which further contains 39.7% by weight of a secondary surfactant and 10.4% by weight of a tertiary surfactant (see page 15, Table 2, Example K). However, patentee differs from applicant in that Wolf et al does not teach or suggest in general

Art Unit: 1751

the specific capped poly(oxyalkylated) alcohol required by applicant in newly amended claim 1.

The examiner makes of record that the double patenting rejection of the instant claims over claims 1-28 of Serial No. 09/733,450 (now U.S. Patent No. 6,686,330) has been withdrawn, since the instant claims are drawn to a compound, which is a distinct invention from the composition claims of Serial No. 09/733,450.

Accordingly, the claims viewed as a whole would not have been obvious to one of ordinary skill in the art at the time of the invention after viewing the prior art of record.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

BPM

Brian Mruk  
March 4, 2004

*Brian P. Mruk*

Brian P. Mruk  
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